

OGC Has Reviewed

Chief, Training Division

22 March 1950

Legal Staff

Disability Benefits

1. In answer to the questions raised in our recent discussion of disabilities occurring in training, the following points are submitted for your guidance and advice. We will try to outline the vested rights of an individual, or the privileges which should be extended on the basis of his particular status.
2. In all cases, some immediate first aid treatment will be required, and where the severity of the injury requires the services of a professional, it is assumed that whoever is in charge will take immediate steps to call a doctor and some means of transportation. From a legal standpoint, the main problem arises in the case where payment or reimbursement is required for services obtained from a private source, or where Government medical attention other than CIA- is given a person not automatically entitled to receive it. There are, of course, the collateral questions of continued hospitalization and medical services, compensation for loss of pay, and, in the alternative, death payments to surviving beneficiaries.
3. Since members of the U.S. Armed Forces will be acting within the course of their official duties and are adequately covered by pertinent legislative provisions, no further reference will be made to this type of personnel. We are referring, of course, to those in a cover situation where identification with the Armed Services is permissible or required.
4. In the case of "staff agents" who are defined under Section 5.2 of the Confidential Funds Regulations as "former staff employees retaining regular CIA employment status under pseudonyms, who, for cover purposes, are in fact employed by either an official U.S. or unofficial organization which has the specific approval of the Assistant Director concerned," we have already mentioned those under U.S. Military cover. This is the type of employee whose rights arise through his basic relationship to the U. S. Government, and consequent with security, civilians will receive the regular employee's benefits. In accordance with instructions and regulations presently in force, they will be entitled to immediate emergency treatment, hospitalization, medical services and supplies, compensation for loss of pay, and certain classes of survivors will receive benefits in the event of death. Attention is particularly directed to the appropriate Administrative Instructions and to Section 10.0 of the Confidential Funds Regulations.

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5. The second broad category would consist of those persons whose rights are derived solely from their contract of employment with CIA. Here we must look to the individual's personal contract and if the appropriate benefits are not contained therein, the contract should either be amended, or a waiver obtained prior to the inception of training. Here again, of course, where the individual is entitled to U. S. Armed Service benefits, and security considerations do not make them unavailable, resort to private sources is unnecessary except in emergency.

6. We come, then, to those cases where the person is neither a member of the U. S. Armed Services nor related to the Agency through employment status or contract. These may be observers or active participants who have access to the training for purposes of representation or advice. They will probably consist of: (a) persons receiving compensation solely from sources outside the U. S. Government; (b) inventors or consultants whose relationship to the Government depends upon professional rather than operational services and who enjoy no employment benefits through contract; and (c) members of foreign governments or military services.

7. The preferable approach to the groups mentioned in paragraph 6 is, of course, to obtain a waiver if it is consistent with purposes of representation and the particular operational relationship with the individual concerned. We understand that even a request for a waiver may be inadvisable in certain cases and may be refused by the individual in others. If the waiver cannot be obtained, then we should secure some form of agreement containing a limitation of liability by the U. S. Government. (Under the Federal Tort Claims Act, the Agency has authority to settle claims not exceeding \$1,000, and the claimant has access to the courts for claims in excess of that amount. However, such claims are founded only upon negligence and cannot be recognized unless some fault on the part of a U. S. employee exists.) If a foreign individual's presence is requested by his government, we believe it would be advisable at the time of the request to reach an understanding with the foreign government that it will assume any expenses incidental to injury. The same approach should be taken when we request the presence of the individual. If the foreign government declines to accept responsibility in either event, we should attempt to obtain a waiver or limitation of liability from the individual. Unfortunately, we do not believe that the procedure in regard to the people in paragraph 6 is susceptible to comprehensive and precise standards. However, we can take action along the general lines indicated, and, in specific cases, we will be very pleased to advise you of the legal implications of the particular problem presented.

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cc: Subject

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